
UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

DANIEL GARCIA,

Plaintiff,

versus

REGINALD GOINGS, *et al.*,

Defendants.

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CIVIL ACTION NO. 1:09-CV-986

**MEMORANDUM ORDER OVERRULING OBJECTIONS AND ADOPTING
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Plaintiff Daniel Garcia, proceeding *pro se*, filed this lawsuit pursuant to 42 U.S.C.

§ 1983. The court previously referred this matter to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court.

The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge. The magistrate judge recommends granting defendants' motion to dismiss the claims against them in their official capacities; denying the remainder of defendants' motion to dismiss for failure to state a claim upon which relief may be granted; and granting defendants' motion for a Rule 7 reply.

The court has received the Report and Recommendation, along with the record, pleadings, and all available evidence. Plaintiff filed objections to the Report and Recommendation.

The court has conducted a *de novo* review of the objections in light of the pleadings and applicable law. After careful consideration, the court is of the opinion the objections are without merit.

ORDER

Accordingly, plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge is **ADOPTED**. Defendants' motion to dismiss the claims against them in their official capacities is **GRANTED**. In all other respects, defendants' motion to dismiss for failure to state a claim is **DENIED**. Defendants' motion for a Rule 7 reply is **GRANTED**. The court notes plaintiff has filed a Rule 7 reply along with his objections.

SIGNED at Beaumont, Texas, this 7th day of March, 2011.

A handwritten signature in cursive script, reading "Marcia A. Crone".

MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE